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Arturo A. Rodriguez

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EXAMINER

USTARIS, JOSEPH G

ART UNIT

PAPER NUMBER

2424

NOTIFICATION DATE

DELIVERY MODE

12/23/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOmail@sciatl.com

Office Action Summary	Application No. 09/896,231	Applicant(s) RODRIGUEZ ET AL.	
	Examiner JOSEPH G. USTARIS	Art Unit 2424	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 75-94 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 75-94 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on March 11, 2008 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 75-94 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 75-81, 83, 84, 92, and 93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoang (US006557030B1) in view of Kusaba et al. (US006510556B1), Lett et al. (US005592551A), and Hicks, III et al. (US20040261112A1).

Regarding claim 75, Hoang discloses a system (Figs. 2 and 3) comprising:

a digital home communication terminal (DHCT) (See Fig. 3, 300) configured to receive media content (See col. 3 lines 40-45) from a remote location (See Figs. 1 and 2) over a hybrid fiber coaxial (HFC) network (See col. 1 lines 29-33), the DHCT comprising:

a hard disk drive (See Fig. 3, 308; col. 5 lines 47-50);

a memory (See Fig. 3, 308; wherein unit 308 also serves as memory); and

a processor (See Fig. 3, CPU 304).

However, Hoang does not explicitly disclose that the memory has an application software and that the processor is configured with the application software to provide a first graphics user interface (GUI) comprising download options for the reception of media content and a second GUI comprising plural media content choices for which the download options do and do not pertain, the processor further configured with the application software to request from the remote location a download of a first media content to the hard disk drive at a defined download rate using bandwidth reclaimed from excess video on demand bandwidth, the defined download rate independent of a playback rate of the media content, the first media content selected by a user from the second GUI.

Kusaba et al. (Kusaba) discloses a video distribution system. Kusaba discloses that a memory (e.g. within the personal computer or television) has application software (See col. 3 lines 63-65 and col. 9 lines 2-13; wherein the client software is installed within the personal computer or television). Furthermore, Kusaba discloses that the processor (e.g. within the personal computer or television) is configured with the application software to provide a first graphics user interface (GUI) comprising download options (e.g. designate channel or input start time) for the reception of media content (e.g. videos) (See Figs. 4C-4E) and a second GUI comprising plural media content choices (e.g. video choices) for which the download options do pertain (See Fig. 4B), the processor further configured with the application software to request from the remote location (See Figs. 1 and 2) a download of a first media content (See Fig. 3) using bandwidth reclaimed from excess video on demand bandwidth (See Figs. 4C-4E, 421; time table 421 shows excess video on demand bandwidth (e.g. open time slots) that can be reclaimed with the current request), the first media content selected by a user from the second GUI (See Fig. 4B). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system disclosed by Hoang to have the memory have an application software and to have the processor be configured with the application software to provide a first graphics user interface (GUI) comprising download options for the reception of media content and a second GUI comprising plural media content choices for which the download options do pertain, the processor further configured with the application software to request from the remote location a download of a first media content using bandwidth reclaimed from

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excess video on demand bandwidth, the first media content selected by a user from the second GUI, as taught by Kusaba, in order to enhance the video on demand (VOD) system to make it more adaptable, smooth, and efficient thereby giving the user more control (See col. 1 lines 57-67).

Lett et al. (Lett) discloses a video distribution system. Lett discloses a GUI that comprises plural media content choices for which the download options do not pertain (See Fig. 5 and 6; channels other than PPV do not have any download options).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system disclosed by Hoang in view of Kusaba to have the second GUI include plural media content choices for which the download options do not pertain, as taught by Lett, in order to provide one convenient location to view various content from different services (e.g. broadcast, PPV, and VOD) (See col. 2 lines 64-67).

Hicks, III et al. (Hicks) discloses a video distribution system. Hicks discloses downloading content to a hard disk drive (e.g. mass storage device) at a defined download rate (e.g. rates greater or lesser than the playback rate), the defined download rate independent of a playback rate of the media content (See paragraph 0040 and 0070-0071). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system disclosed by Hoang in view of Kusaba to download content to a hard disk drive at a defined download rate, the defined download rate independent of a playback rate of the media content, as taught by Hicks, in order to use the bandwidth efficiently by setting download rates based on network data demands and bandwidth constraints (See paragraph 0070).

Regarding claim 76, wherein the first GUI comprises a download option list (See Lett Fig. 13), the download option list comprising selectable first option to download the first media content immediately (e.g. Once) and a selectable second option to download the first media content immediately with the duration according to a first duration (e.g. 3 days) (See Lett Fig. 13).

Regarding claim 77, wherein the download option list comprises a selectable third option to download the first media content immediately with the duration according to a second duration (e.g. 1 week) (See Lett Fig. 13).

Regarding claim 78, wherein the download option list comprises a selectable fourth option that defers commencement of the download of the first media content a defined amount of time (See Kusaba Figs. 4C-4E; user can schedule download at a future start time from the present time the request is being made).

Regarding claim 79, wherein the download option list comprises a selectable fifth option that commences the download of the first media content immediately upon a lapse of a defined amount of time, the defined amount of time referenced from selection of the selectable fifth option by the user (See Kusaba Figs. 4C-4E; the download commences at a future start time selected by the user. The system will wait from the present time to the future start time or “lapse of a defined amount of time” before starting the download).

Regarding claim 80, wherein the download option list comprises a selectable sixth option that comprises a first download duration (e.g. 3 days) (See Lett Fig. 13).

Regarding claim 81, wherein the download option list comprises a selectable seventh option that comprises a second download duration different than the first download duration (e.g. 1 week) (See Lett Fig. 13).

Regarding claim 83, wherein the first GUI further comprises a price window having a monetary value that varies depending on which of the selectable first (e.g. 3 days \$3.99) or second options (e.g. 1 week \$4.99) of the download option list is selected (See Lett Fig. 13).

Regarding claim 84, wherein the second GUI comprises an interactive program guide (IPG) (See Lett Figs. 5 and 6), the IPG comprising a grid having titles and corresponding scheduled presentation times, the titles corresponding to broadcast media content for which the download options do not pertain (See Lett Figs. 5 and 6; broadcast channels and PPV channels), the titles further corresponding to media content that are associated with the download options (See Lett Fig. 13), the titles corresponding to the media content associated with the download options having an indicator in proximity to the title (See Lett Figs. 5 and 6; PPV indicates download options), the indicator suggesting to the user that the media content associated with the download options can be downloaded (See Lett Figs. 5, 6, and 13).

Claim 92 contains the limitations of claim 75 (wherein the system performs the method) and is analyzed as previously discussed with respect to that claim.

Claim 93 contains the limitations of claims 84 and 92 and is analyzed as previously discussed with respect to those claims. Furthermore, Hoang in view of Kusaba, Lett, and Hicks discloses providing a plurality of download options and a price

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window in the second GUI, a monetary value in the price window differing depending on which of the plurality of download options are selected (See Lett Fig. 13; e.g. 3 days costs \$3.99 and 1 week costs \$4.99).

5. Claim 82 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoang (US006557030B1) in view of Kusaba et al. (US006510556B1), Lett et al. (US005592551A), and Hicks, III et al. (US20040261112A1) as applied to claim 76 above, and further in view of Okamoto et al. (US006901385B2).

Regarding claim 82, Hoang in view of Kusaba, Lett, and Hicks does not disclose wherein the download option list comprises plural download options for a trial purchase of media content.

Okamoto et al. (Okamoto) discloses a content distribution system. Okamoto discloses offering media on a trial basis (See abstract, col. 1 lines 15-18, and col. 2 lines 19-43). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system disclosed by Hoang in view of Kusaba, Lett, and Hicks to have the download option list comprise plural download options for a trial purchase of media content, as taught by Okamoto, in order to provide a system wherein the user is allowed to purchase a trial program, thereby providing the user with the opportunity to view a portion of the media before choosing to buy the entire media.

6. Claims 85-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoang (US006557030B1) in view of Kusaba et al. (US006510556B1), Lett et al. (US005592551A), and Hicks, III et al. (US20040261112A1) as applied to claim 75 above, and further in view of Ellis et al. (US20030188313A1).

Regarding claim 85, Hoang in view of Kusaba, Lett, and Hicks discloses that the second GUI comprises an interactive program guide (IPG) (See Lett Figs. 5 and 6), the IPG further comprising a grid having channels and titles corresponding to the channels (See Lett Figs. 5 and 6).

However, Hoang in view of Kusaba, Lett, and Hicks does not disclose that the IPG includes access by the user to a service guide via a service guide option.

Ellis et al. (Ellis) discloses an electronic program guide. Ellis discloses that the user has access to a service guide (See Fig. 6) via a service guide option (See paragraphs 0133; access the MENU). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system disclosed by Hoang in view of Kusaba, Lett, and Hicks to include access by the user to a service guide via a service guide option, as taught by Ellis, in order to enhance the electronic program guide thereby making the guide easier to use for the user (See paragraph 0004).

Regarding claim 86, wherein the processor is further configured with the application software to, responsive to the user selection of the service guide option (See Ellis paragraph 0133; accessing the MENU), present a third GUI comprising the service guide (See Ellis Fig. 6), the service guide comprising a plurality of media content

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options (e.g. TV Guide, NOW SHOWING, MSO LOGO, etc.) with at least one of the media content options associated with the download options (See Ellis paragraph 0134; e.g. NOW SHOWING corresponds to PPV) and at least one of the media content options not associated with the download options (See Ellis Figs. 6 and 18, TV Guide).

Regarding claim 87, wherein the at least one of the media content options associated with the download options includes an option to download at least one of pay per view media content, video on demand media content, music media content, software media content, and game media content (See Hoang col. 3 lines 40-45, Kusaba Figs. 4A-4E, and Hicks paragraph 0070).

7. Claims 88-90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoang (US006557030B1) in view of Kusaba et al. (US006510556B1), Lett et al. (US005592551A), and Hicks, III et al. (US20040261112A1) as applied to claim 75 above, and further in view of Hunter et al. (US20020056118A1).

Regarding claim 88, Hoang in view of Kusaba, Lett, and Hicks, does not disclose comprising a secondary storage device coupled to the DHCT, wherein the processor is further configured with the application software to download media content stored on the hard disk drive to a medium residing in the secondary storage device.

Hunter et al. (Hunter) discloses a video distribution system. Hunter discloses a secondary storage device (e.g. record device) coupled to the user station (See Fig. 11), wherein the processor is further configured with the application software to download media content stored on the hard disk drive to a medium (e.g. DVD) residing in the

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secondary storage device (See Fig. 11; paragraph 0128). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system disclosed by Hoang in view of Kusaba, Lett, and Hicks to have a secondary storage device coupled to the DHCT, wherein the processor is further configured with the application software to download media content stored on the hard disk drive to a medium residing in the secondary storage device, as taught by Hunter, in order to expand the capabilities of the system thereby allowing the user to build a library of movies on DVD (See paragraph 0128).

Regarding claim 89, wherein the processor is further configured with the application software to provide a fourth GUI (See Hunter Figs. 5-7) that enables the user to archive the media content received to the secondary storage device (See Hunter paragraph 0128).

Regarding claim 90, wherein fourth GUI comprises preconfigured lists including a media content list (See Hunter Fig. 7), genre/descriptive list (See Hunter Fig. 5), and medium list (See Hunter Fig. 6), wherein a list entry block for at least one of the preconfigured lists (e.g. medium list) is highlighted (e.g. the title is shown) as a default entry based on metadata (e.g. title) associated with the media content residing on the medium (e.g. the title of the movie stored on the DVD) (See Hunter Fig. 6; paragraph 0074).

8. Claim 91 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hoang (US006557030B1) in view of Kusaba et al. (US006510556B1), Lett et al.

(US005592551A), Hicks, III et al. (US20040261112A1), and Hunter et al. (US20020056118A1) as applied to claim 89 above, and further in view of Philips (US20020069412A1) and Tomita et al. (US006732372B2).

Regarding claim 91, Hoang in view of Kusaba, Lett, Hicks, and Hunter does not disclose wherein the fourth GUI comprises at least one of an option to enable a user to configure a characterization of the media content residing on the medium and an option to search for media content residing on the medium.

Philips discloses a content distribution system. Philips discloses a GUI that enables a user to configure a characterization of the media (e.g. editing the title or information of the media) residing on a medium (See Fig. 6a; edit button; paragraphs 0063-0064 and 0107). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system disclosed by Hoang in view of Kusaba, Lett, Hicks, and Hunter to have the fourth GUI comprise at least one of an option to enable a user to configure a characterization of the media content residing on the medium, as taught by Philips, in order to expand the capabilities of the system thereby allowing the user to customize the media thereby making the media more organized to their taste (See paragraph 0005).

Tomita et al. (Tomita) discloses a content distribution system. Tomita discloses a GUI that provides the user an option to search for media content residing on a medium (See Fig. 18). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system disclosed by Hoang in view of Kusaba, Lett, Hicks, and Hunter to have the fourth GUI comprise at least one of an

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option to search for media content residing on the medium, as taught by Tomita, in order to expand the capabilities of the system thereby providing a means for the user to easily locate content that they are looking for.

9. Claim 94 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter et al. (US20020056118A1) in view of Tomita et al. (US006732372B2).

Regarding claim 94, Hunter discloses a system (See Figs. 4, 11, and 23), comprising:

a storage device comprising one of a digital video disk (DVD) or compact disk (CD) (See Fig. 11, record device and Fig. 23, record device 630; paragraphs 0128 and 0154);

a tuner configured to receive broadcast or on-demand media content (See Fig. 23, 600; paragraph 0150);

a memory with application software (See Fig. 4; paragraph 0064); and

a processor (See Figs. 4 and 23, CPU/microprocessor) configured with application software to provide a graphics user interface (GUI) (See Figs. 5-7) that enables a user to archive broadcast or on-demand media content downloaded to one of the DVD or CD (See paragraphs 0128 and 0154), the broadcast or on-demand media content archived based on metadata (e.g. title of content stored on the DVD) associated with the broadcast or on-demand media content (See Fig. 6; paragraph 0074).

However, Hunter does not disclose that the GUI is further configured to enable the user to search for media content stored on the DVD or CD.

Tomita et al. (Tomita) discloses a content distribution system. Tomita discloses a GUI configured to enable the user to search for media content stored on a medium (See Fig. 18). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system disclosed by Hunter to have the GUI be configured to enable the user to search for media content stored on medium (e.g. DVD or CD), as taught by Tomita, in order to expand the capabilities of the system thereby providing a means for the user to easily locate content that they are looking for.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please take note of Russo (US006025868A) for his similar system of downloading content.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSEPH G. USTARIS whose telephone number is (571)272-7383. The examiner can normally be reached on M-F 7:30-5 PM; Alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on 571-272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Joseph G Ustaris/
Primary Examiner, Art Unit 2424